IOWA DEPARTMENT OF
INSPECTIONS & APPEALS

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LT. GOVERNOR

RODNEY A. ROBERTS, DIRECTOR

DEMAND LETTER
CERTIFIED
Complaint Intake #: 37243-C

February 7, 2012

Ms. Christina Bricker, Housing Manager
Summit Pointe Senior Living
3505 English Glen Avenue
Marion, IA 52302

RE: I. Final Complaint/Incident Investigation Report
II. Civil Penalty
III. Appeals/Hearings
IV. Conclusion

Dear Ms. Bricker:

I. Final Complaint/Incident Investigation Report – Summit Pointe Senior Living, Marion, IA

Enclosed is the **Final Complaint/Incident Investigation Report** completed by the Department of Inspections and Appeals (DIA) in accordance with Iowa Code chapter 231C and Iowa Administrative Code (IAC) chapters 481—67 and 481—69. The Report notes Regulatory Insufficiencies in the area(s) of: Medications, Evaluation and Service Plans.

Summit Pointe Senior Living ("Program") is being assessed a $500 civil penalty. As you note in your letter of January 30, 2012, a Request for Reconsideration is not the proper venue for reconsideration of civil penalties. The civil penalty was issued pursuant to Iowa Code section 231C.14(1)(b) and Iowa Administrative Code rule 481—67.12(3)a(2) for the regulatory insufficiency cited at Iowa Administrative Code rule 481—67.5(6)(a).

II. Civil Penalty

If, within 30 days of the receipt of this demand letter, you (1) do not request a formal hearing or withdraw your request for formal hearing, and (2) pay the civil penalty, the assessed penalty will be reduced by thirty-five percent (35%) pursuant to IAC rule 481–67.12(3)d. If you do not wish to

request a formal hearing or wish to withdraw your request for formal hearing, please send a cover letter to the attention of **Rose Boccella** and remit the civil penalty assessed by check or money order in the amount of three hundred twenty five dollars ($325) within 30 business days after the receipt of this demand letter.

III. Appeals/Hearings

The Program may appeal the DIA decision in accordance with IAC rule 481—67.13 within thirty (30) days of this notice, by submitting a request for appeal to DIA. A contested case hearing will be held pursuant to Iowa Code chapter 17A and IAC chapter 481—10. If the Program appeals the DIA decision, the civil penalty will be suspended pending the appeal process. If the Program does not appeal, the civil penalty is due within 30 days of notice.

IV. Conclusion

The Program is being assessed a $500 civil penalty pursuant to Iowa Code section 231C.14(1)(b) and 481 IAC 67.12(3)(a)(2). The Plan of Correction (POC) submitted on January 30, 2012, has been reviewed and will constitute the final POC related to the on-site visit of January 4 & 5, 2012. The Request for Reconsideration has been denied as the program did not submit cognitive, health and functional evaluations completed by the program after November 1, 2011, when the tenant was experiencing significant changes in condition.

DIA may revisit the Program to confirm compliance in fulfilling the POC's corrective measures. If the Program wishes to appeal the final findings, the Program may do so within 30 days of this letter.

If you have any questions in regard to this letter and enclosed Report, please contact your Program Coordinator, Rose Boccella, at 515/281-7039.

Sincerely,

Ann Martin

Ann Martin, Bureau Chief
Adult Services Bureau

Enclosure

IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
Assisted Living Program
Final Complaint/Incident Investigation Report

Assisted Living Program:

Christina Bricker, Housing Manager
Summit Pointe Senior Living
3505 English Glen Avenue
Marion, IA 52302

Complaint/Incident Intake #: 37243-C

Date of Complaint/Incident Investigation:

January 4th and 5th, 2012

Monitor(s):

Lori Miner, RN BSN

Definitions: ***The following definitions are relevant:***

Assisted Living Program – A program certified under 481 IAC 69 that provides housing with contracted services to three or more tenants in a physical structure that provides a homelike environment. Services may include but are not limited to health-related care, personal care, and assistance with instrumental activities of daily living. A General Population Program is an Assisted Living Program that is not dementia-specific but may have tenants with cognitive disorder.

Dementia-Specific Assisted Living Program - An assisted living program certified under 481 IAC 69 that serves fewer than fifty-five (55) tenants and has five (5) or more tenants who have dementia between Stages 4 and 7 on the Global Deterioration Scale (GDS), or serves 55 or more tenants and 10 percent or more of the tenants have dementia between Stages 4 and 7 on the GDS, or holds itself out as providing specialized care for persons with dementia, such as Alzheimer's disease, in a dedicated setting.

Regulatory Insufficiency - A violation of a statutory or rule provision within the Code of Iowa (2011) or the Iowa Administrative Code (IAC) governing assisted living programs. A regulatory insufficiency requires a plan of correction to be presented to and approved by the Department of Inspections and Appeals (DIA).

Plan of Correction - A written response to one or more regulatory insufficiencies that are statutory or rule violations. The plan should identify how and by what date each regulatory insufficiency will be corrected, and what measures will be taken to ensure the problem does not recur. The plan is due to DIA within ten (10) working days of the program's receipt of a Complaint/Incident Investigation Report. Depending on the circumstances, DIA may revisit the assisted living program to confirm progress in fulfilling a plan's corrective measures.

Overview: ***In preparing this report, the following information was considered:***

Current Program Census

Assisted Living Programs are defined by the type of population served. The census numbers below were provided by the Program at the time of the on-site visit.

General Population Program	
Number of tenants without cognitive disorder:	90
Number of tenants with cognitive disorder:	7
Total Population of Program at time of on-site	97
Dementia-Specific Program by Dedication	
Number of tenants without cognitive disorder:	1
Number of tenants with cognitive disorder:	12
Total Population of Program at time of on-site	13
TOTAL census of Assisted Living Program	110

Program History – The program received a regulatory insufficiency in the area of medication during the Recertification and Incident (30743-I) on-site visit of March 22, 2011.

Complaint/Incident Investigation – The Complaint/Incident investigator(s) made the observations detailed in the following areas:

A. Medications

Complaint/Incident Allegation: It was alleged staff members administered medications set up for tenants by family members. Sometimes the medications are not the same as listed on the sheet. Staff members do not know what the medications are being given.

- Monitoring Observation: The Program Nurse stated family members set up medications in medi-sets for a few tenants. The practice is discouraged. The Program Nurse stated family members are responsible for the medications in the medi-set. Staff members are to count the pills and compare to the Medication Administration Record (MAR). If the number of pills does not match the MAR, the nurse is to be notified, and documented on the MAR an exception to the number of pills given. Family members were contacted by the nurse to correct the medi-set. The medication administration policy was reviewed and it was noted if information did not match, the nurse was to be notified.

  Four staff members were interviewed-#1, 2, 3, and 4. All identified themselves as Certified Nursing Assistants (CNA's) who passed medications at the Program. All indicated the number of pills was checked against the MAR provided by the Program when administering pills from a medi-set. The staff members interviewed indicated they had been observed passing medications by a registered nurse. Staff members indicated the nurse would be notified if the incorrect number of pills was observed and documentation would be made about the discrepancy.

Medi-sets, a medication planner containing pills, were observed for three tenants whom the Program identified as having medications set up by family. Tenants #2, 5, and 6 had medi-sets observed for 1-5-12 morning pills. The observation was made on 1-4-12. MAR's were available for all three tenants. Pills were counted and compared to the MAR's. The numbers of pills matched the numbers of pills identified on the MAR. It was noted that staff members were to document medications had been given from the medi-set and not asked to document specific medications being given.

There is no requirement that universal workers or CNA's know what medications are being given.

- Regulatory Insufficiency: None noted.

Complaint/Incident Allegation: It was alleged diabetic tenants did not receive insulin on time.

- Monitoring Observation: The medication policy was reviewed. Medications were to be administered within one hour before to one hour after the scheduled time. A medication pass was observed on the morning of 1-5-12. The MAR for Tenant #7 indicated insulin was to be given at 7:00 a.m. The insulin was administered at 8:09 a.m. The MAR for Tenant #8 indicated insulin was to be given at 7:00 a.m. The insulin was administered at 8:36 a.m. The MAR did not allow for documentation of the time the medication was given. Both tenants indicated they had not had breakfast but would be eating breakfast soon.

  In two instances, insulin was not given on time.

During the course of the investigation, the following was noted:

- Monitoring Observation: Tenant #9 was scheduled to receive eight medications at 8:00 a.m. The medications were observed as given at 9:27 a.m. The medications ordered were: Folic acid 2 milligrams (mg), Hydrochlorothiazide 25 mg- a diuretic and antihypertensive, Losartan 100 mg-an antihypertensive, Namenda 10 mg-an anti-alzheimer's medication, Dorzolamide/Timolol eye drops twice a day to lower eye pressures, Aspirin 81 mg, Calcium/Vitamin D-a supplement, and Detrol LA 4 mg- for overactive bladder.

  The Program failed to follow procedures set forth by the Program as well as accepted professional standards for medication administration.

- Regulatory Insufficiency: When medications are administered traditionally by the program: (a) The administration of medications shall be provided by a registered nurse, licensed practical nurse or advanced registered nurse practitioner registered in Iowa or by unlicensed assistive personnel in accordance with requirements in 655—Chapter 6 governing nurse delegation. (IAC r. 481-67.5(6)(a))

B. Evaluation

During the course of the investigation, the following was noted.

- Monitoring Observation: Tenant #4, a 90 year-old, was admitted on 4-21-09 and had a diagnosis of Hypertension (HTN), Atrial Fibrillation, and Colon Cancer. Tenant #4 was staged at six on the Global Deterioration Scale (GDS) which indicated severe cognitive decline. Tenant #4 resided in the general population. Tenant #4 was admitted into a hospice program on 10-13-11 for Colon Cancer. The most recent functional, cognitive, and health evaluations were completed on 11-1-11. The functional assessment indicated Tenant #4 was totally dependent for oral hygiene but only required assistance for other activities of daily living (ADL's). Hospice documentation indicated Tenant #4's spouse was the caregiver. The hospice comprehensive assessment update dated 12-19-11 indicated Tenant #4 was alert but pleasantly confused, was non-ambulatory, was total care, and dependent for all toileting needs. Hospice documented the discontinuance of routine medications. The hospice assessment dated 12-28-11 indicated Tenant #4 was total care, dependent for all toileting needs, and was started on an antibiotic for a loose, congested cough. The hospice assessment dated 1-3-12 indicated Tenant #4 slept through the visit, and was noted to be "sleeping all the time." It was noted Tenant #4 was very weak and frail and required total care. Tenant #4 was reported to be taking bites and sips of food only and not eating. Tenant #4 was noted to be weaker.

  The hospice aide was interviewed on 1-5-12. She noted Tenant #4's hands were now mottled, and Tenant #4 was hallucinating about deceased family members.

  Tenant # 4 was observed to require the assistance of one person doing a pivot transfer. Tenant #4 was non-weight bearing. Tenant #4 was observed taking sips of liquids.

  The Program files for Tenant #4 indicated the most recent evaluations were completed on 11-1-11. Hospice documented a change in Tenant #4's condition during the month of December 2011 and January 2012. The Program did not complete evaluations with Tenant #4's change of condition.

- Regulatory Insufficiency: A program shall evaluate each tenant's functional, cognitive and health status within 30 days of occupancy. A program shall also evaluate each tenant's functional, cognitive and health status as needed with significant change, but not less than annually, to determine the tenant's continued eligibility for the program and to determine any changes to services needed. The evaluation shall be conducted by a health care professional or human service professional. A licensed practical nurse may complete the evaluation via nurse delegation when the tenant has not exhibited a significant change.
  (IAC r. 481-69.22(2))

C. Criteria for Admission and Retention

Complaint/Incident Allegation: It was alleged tenants exceeded level of care by always needing two-person assists or requiring two-person assists and requiring total care.

- Monitoring Observation: Tenant #1, a 79 year-old, was admitted on 6-21-07 and had diagnoses of Dementia, Hypertension, History of Stroke, History of Reflux, and History of Anxiety and Depression. Tenant #1 was staged at six on the GDS which indicated severe cognitive decline. Tenant #1 resided in the secured dementia unit. Tenant #1 was admitted into a hospice program on 11-19-10 for debility. The Program had been issued a waiver by the department because Tenant #1 was a routine two person transfer. A waiver extension was denied in a letter dated 11-29-11. The Program issued a 30-day notice of termination of the occupancy agreement on 12-20-11.

  Tenant #2, an 86 year-old, was admitted on 11-13-08 and had a diagnosis of Parkinson's Disease. Tenant #2 was staged at four on the GDS which indicated moderate cognitive decline. Tenant #2 resided in the secured dementia unit. An annual assessment dated 12-12-11 and documented in the service notes indicated Tenant #2 was requiring more assistance with ADL's than Tenant #2 wanted. The functional assessment indicated Tenant #2 required assistance with transfer and ambulation, but did not identify Tenant #2 as a two person transfer. Service notes dated 1-2-12 indicated Tenant #2 was declining in the ability to ambulate and transfer. A physical therapy/occupational therapy evaluation was requested. The Program started a transfer study to determine Tenant #2's transfer needs.

  Staff #3 was interviewed and stated Tenant #2 was a one person transfer. Staff #4 stated Tenant #2 was a two person transfer "sometimes." Staff #5 stated Tenant #2 was able to transfer with the assist of one on 1-5-12.

  Tenant #2 was observed on two occasions and was not routinely a two person transfer.

  Tenant #3, a 94 year-old, was admitted on 2-14-08 and had diagnoses of Dementia, HTN, and Depression. Tenant #3 was staged at six on the GDS which indicated severe cognitive decline. Tenant #3 resided in the secured dementia unit. Evaluations were completed on 9-20-11 which indicated Tenant #3 required assistance but was not totally dependent for ADL's and transfer/ambulation. A nurse review dated 12-23-11 indicated Tenant #3 had no functional changes. Tenant #3 required assistance with ADL's and was able to participate with cues. Tenant #3 was noted to propel self in a wheelchair and able to ambulate short distances with a walker and stand-by assist.

  Staff #1, 2, 3, and 4 was interviewed. All indicated Tenant #3 was a one person transfer. All staff members interviewed indicated Tenant #3 was capable of feeding himself/herself. All staff members interviewed indicated Tenant #3 was capable of walking. Three staff members indicated Tenant #3 assisted with bathing; one did not have knowledge of Tenant #3's ability to bathe. Three staff members indicated Tenant #3 assisted with dressing and grooming.

Tenant #3 was observed during the course of the onsite visit. Tenant #3 was observed eating independently and walking using a walker, gait belt, and stand-by assist. Tenant #3 was observed transferring from the toilet to a standing position with the assist of one.

Tenant #3 was observed and was not observed to be a routine two person transfer and did not require maximal assistance with activities of daily living.

Tenant #1 had been approved by the department for a waiver of the criteria for retention in an assisted living program. When the waiver extension was denied, the Program gave a 30-day notice to terminate the occupancy agreement.

Tenants #2 and #3 did not meet criteria for exclusion from an assisted living program.

- Regulatory Insufficiency: None noted.

D. Service Plans

During the course of the investigation, the following was noted:

- Monitoring Observation: Tenant #2 had documentation in the service notes dated 12-15-11 of agitation when staff members attempted to assist the live-in spouse with morning cares. Tenant #2 was yelling at staff. Service notes dated 1-2-12 indicated Tenant #2 had been increasingly agitated when staff members assisted the spouse with ADL's. The Program Nurse stated staff members were escorting Tenant #2 out of the room while the spouse was receiving cares. The service plan was not updated with interventions for agitation.

  Tenant #4 had a service plan dated 11-1-11, based on evaluations completed on that date. Hospice notes during the months of December 2011 and January 2012 documented a decline in Tenant #4's condition. The current service plan indicated Tenant #4 was to be taken to the bathroom and assisted with dressing and hygiene. The service plan indicated Tenant #4 was able to stand in place for short periods of time and also indicated on the same page Tenant #4 bears little weight. The service plan was not updated to meet the specific needs of Tenant #4. The service plan was not updated with Tenant #4's change in functional ability. The service plan was not updated to include emotional support to Tenant #4 and family. The service plan was not updated with Tenant #4's change of condition and did not meet the specific service needs of Tenant #4.

  The service plans were not updated when changes were needed and did not meet the specific service needs of the tenant.

  Regulatory Insufficiency: A service plan shall be developed for each tenant based on the evaluations conducted in accordance with subrules 69.22(1) and 69.22(2) and shall be designed to meet the specific service needs of the individual tenant. The service plan shall subsequently be updated at least annually and whenever changes are needed. (IAC r. 481-69.26(1))